

County NEW CASTLE COUNTY 23

Referral Memorandum

FILED
PROTHONOTARY

Date: DECEMBER 15, 1999

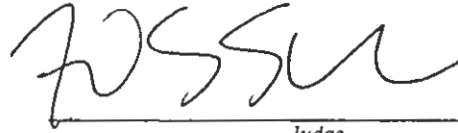
'99 DEC 17 P4:13

To: KESTER CROSSE, ESQUIRE

Re: State v. WILLIAM T. JOHNSON, ID#9606009907

Cr.A.No. _____

THE ATTACHED DOCUMENT, WHICH HAS BEEN
RECEIVED AND REVIEWED BY THE COURT, IS
REFERRED TO YOU AS COUNSEL OF RECORD FOR
WHATEVER ACTION YOU DEEM APPROPRIATE.



Judge

Attachment (copy of document)
cc: Prothonotary (w/orig. att.)
Dept. of Justice (w/att.)
Presentence (w/att.) (if def. is
pending sentencing)
Defendant/Correspondent

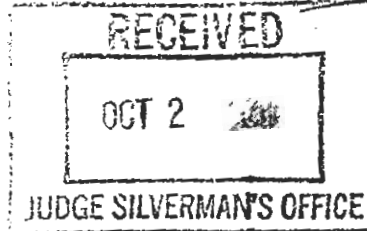
A-8.

WILLIAM T. JOHNSON JR.
V.S.

STATE OF DELAWARE.

ID. No. 9606009707.

IN. 96070070.



#25

DEAR JUDGE SILVERMAN,
MY NAME IS WILLIAM T. JOHNSON JR, AND I'm THE
DEFENDANT IN THE ABOVE CASE. RESPECTFULLY YOUR
HONOR, ON 11-17-99, I FILED A MOTION FOR
MODIFICATION OF SENTENCE AND/OR TO WITHDRAW
MY GUILTY PLEA. AND ACCORDING TO THE SUPERIOR
COURT CRIMINAL DOCKET, MY MOTION HAS BEEN
REFERED TO MR. KESTER CROSSE ESQ, ON 12-17-2000.
YOUR HONOR I HAVE WROTE TO MR. CROSSE REQUESTING
THAT HE INFORM ME WITH ANY INFORMATION OR
STATUS OF MY MOTION, WHICH HE HAS FAILED TO
RESPOND. RESPECTFULLY YOUR HONOR IT HAS NOW
BEEN 10 MONTHS, AND I HAVE NOT RECEIVED ANY
RULING ON MY MOTION FROM YOU AND THE COURT.
WHEREFORE, I REQUEST THAT YOU PROMPTLY MAKE A
RULING ON MY MOTION WITHIN 30 DAYS OF THIS
LETTER, AND PLEASE FORWARD TO ME A COPY OF YOUR
RULING. AND/OR PLEASE RESPOND TO THIS LETTER
WITH YOUR CONCERNS ETC. THANK YOU.

2000 OCT 27 PM 1:00

Sincerely,
William T. Johnson Jr. #202367,
M.P.C.J.F., P.O. Box 9561
Wilmington, Del. 19809

SUPERIOR COURT CRIMINAL DOCKET
(as of 03/21/2000)

Page 1

State of Delaware v. WILLIAM T JOHNSON
 State's Atty: DIANE M COFFEY , Esq.
 Defense Atty: RAYMOND M RADULSKI , Esq.

DOB: 11/12/1971
 AKA: TIMOTHY W JOHNSON
 TIMOTHY W JOHNSON
 TIMITHOY JOHNSON

Assigned Judge:

Charges:

Count	DUC#	Crim.Action#	Description	Dispo.	Dispo. Date
001	9606009907	IN96070070	THEFT \$500 OR >	PG	10/23/1996
002	9606009907	IN96070071	BAD CK<\$1000	NOLP	10/24/1996
003	9606009907	IN96070072	BAD CK<\$1000	NOLP	10/24/1996
005	9606009907	VN9607007001	VIOL O/PROBATN	VIOL	01/08/1998

No.	Event Date	Event	Judge
1	07/01/1996	CASE ACCEPTED IN SUPERIOR COURT. ARREST DATE: 06/21/96 PRELIMINARY HEARING DATE: 07/01/96 WAIVED. BAIL: HELD ON SECURED BAIL 100.00 100 RELEASED ON UNSECURED BOND 200.00	
2	07/08/1996	INDICTMENT, TRUE BILL FILED.	
3	07/08/1996	INDICTMENT, TRUE BILL FILED.	
4	07/08/1996	NOTICE OF SERVICE - DISCOVERY RESPONSE.	
5	07/24/1996	NOTICE OF SERVICE OF DISCOVERY AND ACKNOWLEDGEMENT OF RECEIPT OF	
6	08/21/1996	SUMMONS MAILED.	
7	08/27/1996	SUMMONS SENT BY MAIL RETURNED.	
8	09/08/1996	CASE REVIEW CALENDAR, CONTINUED.	BARRON NORMAN A.
9	09/25/1996	SUBPOENA(S) MAILED.	
10	09/25/1996	SUBPOENA(S) MAILED.	
11	10/03/1996	STATE'S WITNESS SUBPOENA ISSUED.	
12	10/08/1996	SHERIFF'S COSTS FOR SUBPOENAS DELIVERD.	

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SUPERIOR COURT CRIMINAL DOCKET
(as of 03/21/2000)

Page 2

State of Delaware v. WILLIAM T JOHNSON
 State's Atty: DIANE M COFFEY , Esq.
 Defense Atty:

DOB: 11/12/1971
 AKA: TIMOTHY W JOHNSON
 TIMITHOY JOHNSON

No.	Event Date	Event	Judge
13	10/08/1996	SHERIFF'S COSTS FOR SUBPOENAS DELIVERD.	
14	10/08/1996	SHERIFF'S COSTS FOR SUBPOENAS DELIVERD.	
15	10/22/1996	TRIAL CALENDAR, CONTINUED.	SILVERMAN FRED S.
	10/23/1996	TRIAL CALENDAR-DEFENDANT PLED GUILTY, SENTENCED. TO 0070, THEFT(F)>	SILVERMAN FRED S.
16	10/23/1996	PLEA AGREEMENT FILED. TIS	
17	10/23/1996	GUILTY PLEA FORM FILED.	
19	10/23/1996	SENTENCE: ORDER FILED 12121996	SILVERMAN FRED S.
18	10/24/1996	NOLLE PROSEQUI FILED BY ATTORNEY GENERAL. 0071 & 0072, RSN: PLED & SENT.	
20	06/24/1997	PROGRESS REPORT FROM PROBATION AND PAROLE FILED. RECOMMENDATIONS: OTHER DEFER PROBATION UNTIL RELEASE ON 11/23/97	SILVERMAN FRED S.
21	01/06/1998	VIOLETION OF PROBATION REPORT FILED. SERVICE REQUESTED: SUMMONS SO ORDERED	GEBELEIN RICHARD S.
22	11/17/1999	MOTION FOR MODIFICATION OF SENTENCE OR TO WITHDRAW GUILTY PLEA FILED REFERRED TO JUDGE SILVERMAN REFERRED TO PRESENTENCE FOR JUDGE SILVERMAN 12/10/99	
23	12/17/1999	REFERRAL MEMORANDUM. TO KESTER CROSSE, ESQ. DEFT'S MOTION. 840 N. UNION ST 658-8740	SILVERMAN FRED S.
24	12/21/1999	DEFENDANT'S LETTER FILED.	

*** END OF DOCKET LISTING AS OF 03/21/2000 ***
 PRINTED BY: CSCCGRE

A-11.

SUPERIOR COURT
OF THE
STATE OF DELAWARE

FRED S. SILVERMAN
JUDGE

ONE RODNEY SQUARE, SUITE 101
920 KING STREET
WILMINGTON, DELAWARE 19801

October 17, 2000

Raymond Radulski, Esquire
Public Defender's Office
Carvel State Office Building
820 N. French Street, 5th Fl.
Wilmington, DE 19801

Re: *State v. William J. Johnson*, ID#9606009907

Dear Mr. Radulski:

Enclosed is your client's letter dated September 27, 2000. Your client claims that he pleaded guilty to felony theft on October 23, 1996 in connection with an indictment charging him with a theft that occurred between December 24, 1995 and January 10, 1996. The indictment alleges that the amount of the theft was in excess of \$500. Meanwhile, the criminal statute under which he was indicted, 11 *Del. C.* § 841, was amended to increase the felony threshold from \$500 to \$1,000, effective July 10, 1996. In other words, it appears that when Defendant committed his crime, the felony threshold was \$500, but by the time he pleaded guilty and he was sentenced, the threshold had been raised to \$1,000. In short, your client thinks that when the law was changed, its effect related back to the time he committed the crimes.

It appears to me that like your client recognizes, the "effective date" for the felony threshold's increase came several months after Defendant committed his crime. Accordingly, his indictment, guilty plea and sentence are correct because they all fell under the older version of the law. Moreover, it is not clear that this sort of claim is timely at this point.

In any event, your client attempted to file a motion on his behalf on November 17, 1999 and it was referred in error to Mr. Crosse. Acknowledge your client's communications and advise the Court when you have done that.

Very truly yours,



FSS/lah

encl.

cc: Prothonotary

pc: Diane M. Coffey, Deputy Attorney General

William Johnson

A-12.

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEWCASTLE COUNTY.

STATE OF DELAWARE

V.

WILLIAM T. JOHNSON SR.

Name of Movant on Indictment

N/A.

Correct full name of Movant

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*
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No. 9606009907

CR. A. Nos: IN 96070070;

THRU 0071-0072.

THE HONORABLE JUDGE;

FRED S. SILVERMAN.

MOTION FOR POSTCONVICTION RELIEF

INSTRUCTIONS

- (1) This motion must be legibly handwritten or typewritten, and signed by the movant under penalty of perjury.
- (2) All grounds for relief and supporting facts must be included, and all questions must be answered briefly in the proper space on the form.
- (3) Additional pages are not permitted. If more room is needed, use the reverse side of the sheet.
- (4) No citation of authorities is required. If legal arguments are submitted, this should be done in a separate memorandum.
- (5) Only convictions that were included in the same plea agreement or were tried together may be challenged in a single motion.
- (6) When the motion is completed, the original must be mailed to the Prothonotary in the county in which the judgment of conviction was entered. No fee is required.
- (7) The motion will be accepted if it conforms to these instructions. Otherwise, it will be returned with a notation as to the deficiency.

MOTION

1. County in which you were convicted NEWCASTLE.
2. Judge who imposed sentence FRED S. SILVERMAN.
3. Date sentence was imposed 10-23-1996.
4. OFFENSE FOR WHICH DEFENDANT WAS SENTENCED AND LENGTH.
FELONY THEFT OVER \$500.00; IN 96070070.
2 YEARS SUSPENDED FOR 1 YEAR LEVEL 3.
AND 1 YEAR LEVEL 1 PROBATION.

A-13.

5. Did you have any sentence(s) to serve other than the sentence(s) imposed because of the judgment(s) under attack in this motion?

Yes (☒) No (☐)

If your answer is "yes," give the following information:

Name and location of court(s) which imposed the other sentence(s):

SUPERIOR COURT NEWCASTLE COUNTY.

Date sentence(s) imposed: 12-11-1998.

Length of sentence(s) 8 YEARS

6. What was the basis for the judgment(s) of conviction? (Check one)

Plea of guilty (☒)

Plea of guilty without admission of guilt ("Robinson plea") (☐)

Plea of nolo contendere (☐)

Verdict of jury (☐)

Finding of judge (nonjury trial) (☐)

7. Judge who accepted plea or presided at trial FRED B. SILVERMAN

8. Did you take the witness stand and testify? (Check one)

No trial (☒) Yes (☐) No (☐)

9. Did you appeal from the judgment of conviction? Yes (☐) No (☒)

If your answer is "yes," give the following information:

Case number of appeal N/A

Date of court's final order or opinion N/A

10. Other than a direct appeal from the judgment(s) of conviction, have you filed any other motion(s) or petition(s) seeking relief from the judgment(s) in state or federal court? Yes (☒) No (☐)
How many? (/)

If your answer is "yes," give the following information as to each: DATED: 11-17-1999.

Nature of proceeding(s) MOTION TO WITHDRAW GUILTY PLEA.

Grounds raised THAT THE THEFT FELONY CHARGE WAS ILLEGIT.

Was there an evidentiary hearing? NO

Case number of proceeding(s) 9606009907.

Date(s) of court's final order(s) or opinion(s) CASE MOTION STILL PENDING.

Did you appeal the result(s)? NO BECAUSE MOTION STILL PENDING.

DATED 11-17-1999.

11. Give the name of each attorney who represented you at the following stages of the proceedings relating to the judgment(s) under attack in this motion:

At plea of guilty or trial

On appeal

In any postconviction proceeding

11. Give the name of each attorney who represented you at the following stages of the proceedings relating to the judgment/s under attack in this motion:

At plea of guilty or trial MR. RAYMOND RADULSKI, PUBLISHER.

On appeal N/A

In any postconviction proceeding N/A

12. State every ground on which you claim that your rights were violated. If you fail to set forth all grounds in this motion, you may be barred from raising additional grounds at a later date. You must state facts in support of the ground/s which you claim. For your information, the following is a list of frequently raised grounds for relief (you may also raise grounds that are not listed here): double jeopardy, illegal detention, arrest, or search and seizure, coerced confession or guilty plea; uninformed waiver of the right to counsel, to remain silent, or to speedy trial, denial of the right to confront witnesses, to subpoena witnesses, to testify, to ineffective assistance of counsel, suppression of favorable evidence, or unfulfilled plea agreement.

Ground one: SEE ENCLOSED MEMORANDUM.

Supporting Facts: (state facts briefly, without citing cases)

SEE ENCLOSED MEMORANDUM.

Ground two: SEE ENCLOSED MEMORANDUM.

Supporting Facts: (state facts briefly, without citing cases)

SEE ENCLOSED MEMORANDUM.

Ground three: SEE ENCLOSED MEMORANDUM.

Supporting Facts: (state facts briefly, without citing cases)

SEE ENCLOSED MEMORANDUM.

If any of the grounds listed were not previously raised, state briefly what grounds were not raised, and give your reason/s for not doing so: _____

N/A

Wherefore, movant asks this court to grant him all relief to which he may be entitled in this proceeding.

I declare the truth of the above under penalty of perjury.

Date 7-16-2004.

William F. Adams, Jr.
Signature of Movant